

II. Areas of Focus

A. TAS Will Work Closely With the IRS on Implementing the Taxpayer Bill of Rights and Integrating It into IRS Operations

Taxpayer rights are essential for promoting voluntary compliance. If taxpayers believe they are treated, or can be treated, in an arbitrary and capricious manner, they will mistrust the tax system and be less likely to comply of their own volition. By contrast, taxpayers will be more likely to comply if they have confidence in the fairness and integrity of the tax system. The National Taxpayer Advocate has repeatedly recommended that Congress enact a comprehensive Taxpayer Bill of Rights to capture and organize all these rights in one place in the law.¹ This Taxpayer Bill of Rights would act as an organizing principle for tax administrators, an educational framework for IRS employees, and a tool to empower taxpayers.

To its great credit, the IRS on June 10, 2014 adopted the Taxpayer Bill of Rights (TBOR) that the National Taxpayer Advocate has long advocated, pulling together in one basic statement the principles that underlay the substantive rights scattered throughout the Internal Revenue Code.²

The IRS has incorporated the TBOR into a revamped version of Publication 1, *Your Rights as a Taxpayer*,³ which traditionally has been its main vehicle for explaining taxpayer rights to taxpayers. By launching the revised publication in June at the same time it formally accepted the TBOR, the IRS ensured the new version would be available at a time when many notices are going out to taxpayers. The IRS has also created a webpage that lists the ten core taxpayer rights and prominently displays the TBOR on its homepage.⁴

In addition, the IRS has committed to keeping the TBOR prominently displayed on the IRS.gov homepage after it moves from the spotlight section to a more permanent location. The IRS has created TBOR call-out boxes, *i.e.*, prominent graphics, on 49 web pages, 23 of which are the most visited on IRS.gov.

1 See e.g., *Hearing on Internal Revenue Service FY 2015 Budget Request before the Subcomm. on Financial Services and General Government, Comm. on Appropriations, U.S. Senate* (April 30, 2014) (Written Statement of Nina E. Olson); National Taxpayer Advocate 2011 Annual Report to Congress 493-518; National Taxpayer Advocate 2007 Annual Report to Congress 478-89.

2 See National Taxpayer Advocate 2013 Annual Report to Congress 5 (Most Serious Problem: *TAXPAYER RIGHTS: The IRS Should Adopt a Taxpayer Bill of Rights as a Framework for Effective Tax Administration*).

3 Publication 1, *Your Rights as a Taxpayer* (June 2014).

4 <http://www.irs.gov/Taxpayer-Bill-of-Rights> (last visited June 18, 2014); <http://www.irs.gov/> (last visited June 18, 2014).

FIGURE II. 1, TAXPAYER BILL OF RIGHTS

TAXPAYER BILL OF RIGHTS

THE RIGHT TO BE INFORMED

Taxpayers have the right to know what they need to do to comply with the tax laws. They are entitled to clear explanations of the laws and IRS procedures in all tax forms, instructions, publications, notices, and correspondence. They have the right to be informed of IRS decisions about their tax accounts and to receive clear explanations of the outcomes.

THE RIGHT TO QUALITY SERVICE

Taxpayers have the right to receive prompt, courteous, and professional assistance in their dealings with the IRS, to be spoken to in a way they can easily understand, to receive clear and easily understandable communications from the IRS, and to speak to a supervisor about inadequate service.

THE RIGHT TO PAY NO MORE THAN THE CORRECT AMOUNT OF TAX

Taxpayers have the right to pay only the amount of tax legally due, including interest and penalties, and to have the IRS apply all tax payments properly.

THE RIGHT TO CHALLENGE THE IRS'S POSITION AND BE HEARD

Taxpayers have the right to raise objections and provide additional documentation in response to formal IRS actions or proposed actions, to expect that the IRS will consider their timely objections and documentation promptly and fairly, and to receive a response if the IRS does not agree with their position.

THE RIGHT TO APPEAL AN IRS DECISION IN AN INDEPENDENT FORUM

Taxpayers are entitled to a fair and impartial administrative appeal of most IRS decisions, including many penalties, and have the right to receive a written response regarding the Office of Appeals' decision. Taxpayers generally have the right to take their cases to court.

THE RIGHT TO FINALITY

Taxpayers have the right to know the maximum amount of time they have to challenge the IRS's position as well as the maximum amount of time the IRS has to audit a particular tax year or collect a tax debt. Taxpayers have the right to know when the IRS has finished an audit.

THE RIGHT TO PRIVACY

Taxpayers have the right to expect that any IRS inquiry, examination, or enforcement action will comply with the law and be no more intrusive than necessary, and will respect all due process rights, including search and seizure protections and will provide, where applicable, a collection due process hearing.

THE RIGHT TO CONFIDENTIALITY

Taxpayers have the right to expect that any information they provide to the IRS will not be disclosed unless authorized by the taxpayer or by law. Taxpayers have the right to expect appropriate action will be taken against employees, return preparers, and others who wrongfully use or disclose taxpayer return information.

THE RIGHT TO RETAIN REPRESENTATION

Taxpayers have the right to retain an authorized representative of their choice to represent them in their dealings with the IRS. Taxpayers have the right to seek assistance from a Low Income Taxpayer Clinic if they cannot afford representation.

THE RIGHT TO A FAIR AND JUST TAX SYSTEM

Taxpayers have the right to expect the tax system to consider facts and circumstances that might affect their underlying liabilities, ability to pay, or ability to provide information timely. Taxpayers have the right to receive assistance from the Taxpayer Advocate Service if they are experiencing financial difficulty or if the IRS has not resolved their tax issues properly and timely through its normal channels.

Learn more at www.TaxpayerAdvocate.irs.gov/taxpayer-rights



We have asked, and the IRS is considering, to place a link to the TBOR pages in the footer of every page on the site.

These steps by the IRS are laudable, but they are only the first of many.⁵ The work of integrating the TBOR into tax administration and the IRS's daily interactions with taxpayers now begins in earnest.

The National Taxpayer Advocate intends to make this a major goal of her office — to ensure that every taxpayer understands the fundamental rights afforded him in his interactions with the tax system.

Beginning now and continuing in fiscal year (FY) 2015, TAS is launching a public outreach effort that will be crucial to overcome taxpayers' current lack of knowledge about their rights and inform them the IRS has adopted the TBOR.⁶ TAS will also work with the IRS to integrate the TBOR into the Internal Revenue Manual (IRM) as part of a broader effort to embed awareness of these rights throughout the IRS workplace and culture.

The National Taxpayer Advocate intends to make this a major goal of her office — to ensure that every taxpayer understands the fundamental rights afforded him in his interactions with the tax system; to ensure that every IRS employee understands the role taxpayer rights play in tax administration as a whole and in the particular aspect of the system with which that employee is involved; and to ensure that IRS decisions, processes, procedures, guidance (both to employees and taxpayers), training, and publications promote, educate, and explain the TBOR. This is the work of a lifetime, on which TAS embarks today.

TAS Will Work to Promote and Provide Access to Taxpayer Rights on a Daily Basis.

TAS research shows that many taxpayers are not aware they have rights. The results of a recent nationwide survey of taxpayers found fewer than half of U.S. taxpayers believed they have rights before the IRS, and only 11 percent said they knew what those rights were.⁷ Taxpayer knowledge and education is the best taxpayer protection there is. A comprehensive public outreach campaign is crucial to overcome taxpayers' lack of knowledge about their rights and inform them that the IRS has adopted the TBOR. These initiatives will require a variety of communication plans and tools, all with the goal of making taxpayer rights a part of every IRS communication with the taxpayer.

5 For a list of actions the IRS has committed to take regarding the Taxpayer Bill of Rights, see IRS Response to Recommendations, National Taxpayer Advocate 2013 Annual Report to Congress (Most Serious Problem: *TAXPAYER RIGHTS: The IRS Should Adopt a Taxpayer Bill of Rights as a Framework for Effective Tax Administration*, available at <http://www.taxpayeradvocate.irs.gov/userfiles/file/IRS-2013-MSP-Responses.pdf>.

6 In a 2012 nationwide TAS study, only 46 percent of taxpayers contacted believed they had any rights before the IRS, and only 11 percent said they knew what their rights were. Forrester Research Inc. *The TAS Omnibus Analysis, from North American Technographics Omnibus Mail Survey, Q2/Q3 2012, 20m* (Sept. 17, 2012), available at http://tasnew.web.irs.gov/files/ResearchStudies/Communications/North_American_Technographics_Omnibus_Mail_Survey.ppt.

7 Forrester Research Inc., *The TAS Omnibus Analysis, from North American Technographics Omnibus Mail Survey, Q2/Q3 2012, 20* (Sept. 17, 2012).

The National Taxpayer Advocate's report to the Acting Commissioner in November of 2013, urging adoption of a TBOR, included a comprehensive list of steps to expand knowledge of taxpayer rights among both the public and IRS employees.⁸ TAS is working with the IRS on steps to implement this campaign both internally and externally. This effort will employ all available media and the outreach skills of TAS employees. At the time of the June 10 launch, TAS had already taken many actions to make the TBOR real. TAS created a bilingual (English and Spanish) poster version of Publication 1 to be displayed in Low Income Taxpayer Clinics (LITCs), the IRS's Taxpayer Assistance Centers, local TAS offices, and all other taxpayer-facing offices and worked with the IRS for them to be placed in each office noted above and where taxpayers come for appointments, including Exam, Appeals, and Collection. TAS has worked with the IRS to display a prominent taxpayer rights message on the IRS.gov homepage in addition to new taxpayer rights pages on IRS.gov.

TAS also is developing a bilingual brochure that will list and explain the ten rights for all offices where posters will be displayed. This publication will have additional information about TAS's role and contact information, including the web address for the page that explains what these rights mean to the taxpayer.⁹

Along with the IRS.gov pages, TAS has created its own TBOR webpage on the TAS Tax Toolkit at www.TaxpayerAdvocate.irs.gov, which provides a central location for taxpayers to learn about all aspects of the TBOR.

This webpage links to further pages that explain each of the individual rights. It also includes links to the relevant IRS publications that inform taxpayers of their rights. In order to help taxpayers understand what the core principles mean, one webpage titled "What the Taxpayer Bill of Rights Mean to You" includes a "crosswalk" that provides specific examples and plain language explanations of the different Internal Revenue Code provisions, administrative provisions, and IRS publications that fall under each of the core principles.¹⁰ TAS plans to continue expanding its TBOR webpage over time by adding more examples of Code sections and administrative provisions for each of the rights, as well as remedies that exist when those rights are violated. By the end of the year, TAS expects to have its website revamped to be mobile-friendly, providing taxpayers easy access to their rights on any portable device. TAS is also exploring a mobile application that would be anchored by the Taxpayer Bill of Rights and how taxpayers can apply them.

TAS publicized the release of the TBOR through social media. TAS has distributed Facebook posts and tweets via Twitter since the IRS's adoption of the TBOR.

8 National Taxpayer Advocate, *Toward a More Perfect Tax System: A Taxpayer Bill of Rights as a Framework for Effective Tax Administration* (Nov. 4, 2013), available at: <http://www.taxpayeradvocate.irs.gov/userfiles/file/2013FullReport/Toward-a-More-Perfect-Tax-System-A-Taxpayer-Bill-of-Rights-as-a-Framework-for-Effective-Tax-Administration.pdf>. The National Taxpayer Advocate also issued a report to the Acting Commissioner in August 2013 on ways to increase awareness of taxpayer rights and TAS. *National Taxpayer Advocate's Report in Response to the Acting Commissioner's 30 Day Report: Analysis and Recommendations to Raise Taxpayer and Employee Awareness of the Taxpayer Advocate Service and Taxpayer Rights* (Aug. 19, 2013), available at: <http://www.taxpayeradvocate.irs.gov/userfiles/file/2013FullReport/30-Day-Report.pdf>.

9 Available at: <http://www.taxpayeradvocate.irs.gov/About-TAS/Taxpayer-Rights/What-the-Taxpayer-Bill-of-Rights-Means-for-You>.

10 <http://www.taxpayeradvocate.irs.gov/About-TAS/Taxpayer-Rights> (last visited June 18, 2014).

As of June 20, over 6,500 people have been reached via Facebook, including instances where Facebook posts were shared or reposted.

FIGURE II. 2, TBOR ON TAS'S TAX TOOLKIT



In addition to educating taxpayers on the TBOR, TAS is taking actions to ensure IRS employees are reminded about the TBOR on a day-to-day basis. This effort includes the following steps:

- TAS is working with IRS in distributing a Taxpayer Bill of Rights poster in all employee areas.
- The IRS will email all employees a smaller version of the poster that they can print out for their own workstations.
- W&I will distribute a copy of the employee flier in its August employee newsletter, Offline, in such a way that employees can cut a copy of the TBOR from the newsletter.
- TAS employees will receive individual copies of TBOR for their workstations.
- TAS plans to develop taxpayer rights language for use by other business units on their IRS.gov pages, including references to TAS and LITCs, as well as specific taxpayer rights and links to the U.S. Tax Court website where appropriate.
- To help orient employees to the concept of the TBOR and its application, TAS is considering a “test your TBOR IQ” multiple-choice test for IRS employees on the agency intranet.

A coordinated outreach program with the IRS to spread awareness of the TBOR among members of Congress, tax professionals, community organizations, and other stakeholders

is vital to the success of the TBOR. Toward this end, TAS has a toolkit and is creating additional TBOR resources for Local Taxpayer Advocates (LTAs) to use at different outreach events, including the brochures mentioned above. TAS is developing PowerPoint presentations and possible videos for external audiences. All LTAs will have a commitment in FY 2015 to conduct outreach on the TBOR to the public. To increase awareness among legislators, TAS has drafted a letter for LTAs to send to all local Congressional offices, along with a copy of the TAS taxpayer rights brochure and links to the TBOR webpages.

To target practitioners, TAS plans to distribute TBOR posters and brochures at the IRS Nationwide Tax Forums, targeting participants in the Focus Groups and the Case Resolution Rooms. TAS has created a TBOR flier that will be given to each of the thousands of attendees at the IRS Nationwide Tax Forums in five cities across the country this summer. We also created slides highlighting the TBOR announcement and the ten rights to be shown throughout the day between sessions at the Tax Forums, and have posters to be placed at registration and in the Case Resolution rooms managed by TAS.

TAS Will Ensure the TBOR Is Integrated into IRS Guidance.

The IRM is the “primary, official source of IRS ‘instructions to staff’ that relate to the administration and operation of the Service.”¹¹ As such, the IRM is a major vehicle for educating IRS employees about the importance of taxpayer rights overall, how they apply with respect to specific IRS procedures and actions, and when and how to inform taxpayers about their rights. When these instructions are unclear or incomplete, or do not explain *why* an action is important from a taxpayer rights perspective, employees may misinterpret them, take shortcuts, skip steps, and thus act (or fail to act) in ways that undermine taxpayer rights.

For example, IRM 4.19.2.2.28.3 discusses procedures involving undelivered Statutory Notices of Deficiency (SNODs) in the Automated Underreporter unit.¹² This IRM states, “All undelivered Stat notices are considered high priority work. Issuance of the Statutory Notice to the most recent address of record protects the assessment statute.” While this section explains why the SNOD is high priority work from the function’s perspective (i.e., the need to protect the assessment statute), it does not explain why the SNOD is high priority work from the *taxpayer’s* perspective – i.e., it actualizes the taxpayer’s *right to appeal an IRS decision in an independent forum*, without having to pre-pay the proposed tax deficiency. The guidance does not explain what is considered “undeliverable” or the impact on the taxpayer if the notice is undeliverable - the taxpayer might lose the important right to petition the United States Tax Court to dispute the IRS’s proposed deficiency before the tax is assessed

¹¹ IRM 1.11.2.2 (May 11, 2012).

¹² IRM 4.19.2.2.28.3 (Sept. 1, 2013).

or paid.¹³ This explanation is crucial if IRS employees and taxpayers alike are to understand the role the SNOD plays in the fairness of the tax system.

In 2013, the National Taxpayer Advocate convened a Taxpayer Rights IRM Review Team to undertake a comprehensive audit of all non-administrative IRM sections and to recommend revisions to enhance taxpayer rights. The team has identified an initial group of about 570 high-impact subsections in IRM 4, *Examining Process*, IRM 5, *Collecting Process*, and IRM 21, *Customer Account Services*.¹⁴ In determining “high impact” status, the team considered the following factors:

- The number of taxpayers likely to be impacted by the process discussed in the subsection;
- The vulnerability of the particular taxpayer population impacted by the subsection;
- The length of time since the IRS last revised the IRM subsection;
- Whether the taxpayer would have limited time or options to appeal a decision made under the subsection; and
- The need to educate taxpayers about their rights at the earliest point in their interaction with the IRS.

The team then developed the following uniform criteria to determine whether a given IRM subsection would educate employees and give them clear instructions to safeguard taxpayer rights:

Criterion #1: *Does the procedure described in the IRM or other internal or external IRS guidance provide proper consideration of taxpayer rights?* The guidance should be designed to ensure IRS employees perform their duties using procedures that conform to and protect taxpayer rights.

Criterion #2: *Does the IRM or other internal guidance provide sufficient employee education about taxpayer rights to enable employees to honor, protect, and communicate those rights?* Guidance should provide employees with foundational knowledge about taxpayer rights, including the existence of the rights, the legal basis for those rights, and the consequences to both the taxpayer and the IRS if rights are compromised. This knowledge can empower an employee to raise possible taxpayer rights risks in procedures or ask for further guidance.

Criterion #3: *Does the IRS communicate information about taxpayer rights in a way that the average taxpayer can understand?* IRS communications to the public, whether

13 Other IRM subsections specifically on the topic of the Statutory Notice of Deficiency contain more thorough explanations, but IRM 4.19.2.2.28.3 does not link to or reference them. See, e.g., IRM 4.8.9.21 (July 9, 2013) and IRM 4.8.9.8.2.5 (July 9, 2013). See IRC § 6212(b) (explaining that mailing the notice of deficiency to the taxpayer’s last known address is sufficient). IRC § 6213(a) provides the taxpayer with 90 days (or 150 days if addressed to a person outside of the United States) to petition the U.S. Tax Court after the Statutory Notice of Deficiency is mailed.

14 The IRM is organized by Part, Chapter, Section, and Subsection. For example, IRM 1.11.2.2 is a subsection.

a conversation with the taxpayer, a letter or publication, or public sections of the IRM, should provide information about taxpayer rights in plain language.

Criterion #4: *Does the IRS inform taxpayers of their rights at various points in their interaction with the agency and explain what specific appeal remedies or other protections exist at different points in the tax process?* IRS guidance to its employees should help taxpayers learn about their rights at key junctures when they may need to exercise those rights or when specific, available remedies are triggered. Moreover, taxpayer rights information should be communicated at various stages of taxpayers' interaction with the IRS, including during the filing season, and not only when the taxpayer already has a problem with the IRS, which may be too late.¹⁵

To date, the Taxpayer Rights IRM Review Team has reviewed about 425 of the approximately 570 high impact subsections using the above criteria. The team has developed over 140 recommendations for adding taxpayer rights information and has sent 36 to IRS operating divisions for review. At this point, the IRS has accepted one recommendation fully and one partially. The review team has also identified 25 priority IRM subsections, based on the number of recommended revisions. As the review process continues, the team will expand its list of high priority subsections to include parts of IRM 7, *Rulings and Agreements*, IRM 8, *Appeals*, IRM 20, *Penalty and Interest*, IRM 25, *Special Topics*, as well as additional subsections in IRM 5, *Collecting Process*.

IRS Response to the 2013 Annual Report to Congress Most Serious Problem on Taxpayer Bill of Rights

In its response to the National Taxpayer Advocate's 2013 Annual Report to Congress, which identified the need for a TBOR as the number one Most Serious Problem, the IRS has committed to take the following actions in collaboration with the National Taxpayer Advocate:

- Revise IRS Publication 1, *Your Rights as a Taxpayer*, to reflect revised language of the Taxpayer Bill of Rights. The first part of this publication will explain some of the most important rights as a taxpayer. The second part will explain the examination, appeal, collection, and refund processes. This publication will also be available in Spanish. Publication 1, *Your Rights as a Taxpayer*, was first published in 1988.
- Engage in communications and discussions with IRS managers and employees about the Taxpayer Bill of Rights and demonstrate leadership support. This will include communicating with employees throughout the year about the importance of the Taxpayer Bill of Rights and its application to everyday work activities and taxpayers.
- Inform external stakeholders about the Taxpayer Bill of Rights and the IRS's commitment to ensuring taxpayers are afforded those rights. This will include highlighting the

¹⁵ Practitioners have commented that the IRS only provides Publication 1, *Your Rights as a Taxpayer*, once the taxpayer already had a problem with the IRS and it should be provided before this point. See 2011 IRS Nationwide Tax Forums TAS Focus Group Report: Publication 1- Taxpayer Rights (Oct. 2011).

Taxpayer Bill of Rights on the agency’s public-facing website, IRS.gov, and including it in materials delivered to taxpayers, the media, and tax professionals.

- Determine the most efficient and cost-effective way of delivering materials on the Taxpayer Bill of Rights to all public-facing IRS sites so that they are in place as soon as possible.
- Establish a reference landing page on the IRS.gov website to communicate official information about the Taxpayer Bill of Rights and its application to everyday interactions with the IRS.
- Feature a link to the Taxpayer Bill of Rights landing page on the IRS.gov homepage, consistent with strategies to increase the number of online visitors exposed to information about the Taxpayer Bill of Rights.
- Update information about the Taxpayer Bill of Rights on key pages within the IRS.gov website, where appropriate, to ensure that the official IRS.gov website provides accurate and up-to-date information to all online visitors.
- For IRS employees, post information about the Taxpayer Bill of Rights on key Business Unit pages.
- Determine the most efficient and cost-effective way of delivering materials on the Taxpayer Bill of Rights to all public-facing IRS sites.
- Ensure all materials are in place as soon as possible.

Focus for FY 2015

In FY 2015, the National Taxpayer Advocate’s Taxpayer Rights IRM Review Team, in conjunction with TAS Internal Management Documents Single Point of Contact (IMD SPOC), will continue to review the IRM subsections identified as “high impact” and recommend revisions to strengthen taxpayer rights. TAS will work with the IRS to adopt and deploy the taxpayer rights review criteria explained above to all IRS employees who create or review IRM content going forward. TAS also plans to propose a TBOR Policy Statement to be included in the IRM.

TAS will work with the IRS to audit and analyze all IRS employee training to determine what training on taxpayer rights is now available and what employees will need in the future. This will include developing guidelines and examples for incorporating taxpayer rights into training as well as creating a stand-alone module on taxpayer rights. TAS will revise its own *Roadmap to a Tax Controversy* training for use by all IRS employees. This training provides an overview of statutory and administrative taxpayer rights protections available at all stages of the tax controversy process.

During FY 2015, TAS will distribute the TBOR outreach materials to all appropriate offices and work with the IRS to include the taxpayer rights information on various pages on the

IRS.gov website. In FY 2015, TAS will conduct a survey of taxpayers to learn whether taxpayers have greater awareness of their rights as a result of these activities. Local Taxpayer Advocates will have performance commitments in FY 2015 to conduct outreach to community and grassroots groups. TAS will continue expanding its TBOR webpage, including the crosswalk, and linking to additional materials and sites that can assist taxpayers in availing themselves of their rights. TAS will continue creating materials that inform taxpayers of their rights in various situations, including planned Consumer Tax Tips Brochures on the examination process and appeals process. TAS plans to create videos to be posted on the webpage that focus on various rights in the TBOR.